



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Johannes Jacobus MEERMAN et al.

Group Art Unit: 1791

Application No.: 10/500,713

Examiner: J. WOLLSCHLAGER

Filed: July 6, 2004

Docket No.: 119567

For: METHOD FOR MANUFACTURING FILAMENTS FROM AN OPTICALLY
ANISOTROPIC SPINNING SOLUTION AND AIR GAP SPINNING DEVICE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This request is being filed with a Notice of Appeal. Review of the December 29, 2008 Rejection is requested for the reasons set forth in the attached five or fewer sheets.

Should any questions arise regarding this submission, or the Review Panel believe that anything further would be desirable in order to place this application in even better condition for allowance, the Review Panel is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Ryan R. Brady
Registration No. 62,746

JAO:RRB

Date: June 26, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

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REMARKS

Claims 1-7 are pending in this application. Claims 1-7 are rejected. No amendments are being filed with this Request.

The December 29, 2008 Final Rejection ("FR") objects to the drawings filed April 30, 2007 and rejects claims 1-7 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The FR, at pages 2-3, alleges that amended Figure 2 contains new matter because "the slot or diaphragm is positioned at the bottom of the coagulation bath," of claims 1 and 2 is not supported by the original disclosure.

The objection and the rejection are in clear error because the original disclosure conveys with reasonable clarity to those skilled in the art that the applicants were in possession of the feature in question.

Paragraph [0001] of the specification indicates that the "invention pertains to a **method** of manufacturing filaments from an optically anisotropic spinning solution..." (emphasis added). Paragraph [0002] states that "such a method is known" from European Patent No. 0,904,431 ("EP '431"), and goes on to describe that while this known method produces filaments of good strength, there are still problems with the process. Paragraph [0003] describes that the "present invention" is "a very simple and effective embodiment that provides a substantial improvement of the **known method**" (emphasis added). Paragraph [0004] indicates that the object of the present invention is attained by "adapting **the process of the state of the art** as indicated above."

Based on these disclosures of the specification, one skilled in the art would readily understand that, in a manner similar to Jepson format claims, Applicants disclose that they took a known method--the method described in EP '431-- and made an improvement to that method.

Thus, one of skill in the art would immediately appreciate that the Applicants were in possession of all of the features described in EP '431, and that these feature were "well known in the art" because they were described in a published patent. Further, the first named inventor of both EP '431 and this application are the same.

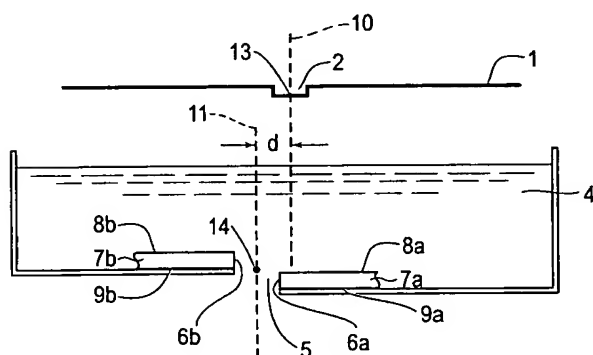
One of the features disclosed in EP '431 is the configuration of the discharge opening, which is located at the bottom of the coagulation bath, where the adjacent edges of the opening are "on different levels." *See* EP '431, paragraphs [0014] and [0016]-[0018].¹ The first sentence of paragraph [0002] of this application makes reference to this feature. One of skill in the art would readily understand from EP '431 that the discharge opening with adjacent edges on different levels was located at the bottom of the bath and nowhere else.

Thus, one of skill in the art would read this specification armed with the background information explained above, readily able to discern and understand the "improvement" over the well known process described in EP '431. This improvement is described in detail in paragraph [0004] where it indicates that the EP '431 process was modified so that "the positions of the spinning field and the slot or diaphragm are such that a line through the center of the spinning field and perpendicular to the upper sides of the plates is put at a distance (d) to a parallel line through the center of the slot or diaphragm...." In other words, the improvement is directed to the positioning of the center of the spinning field to the center of slot/diaphragm.

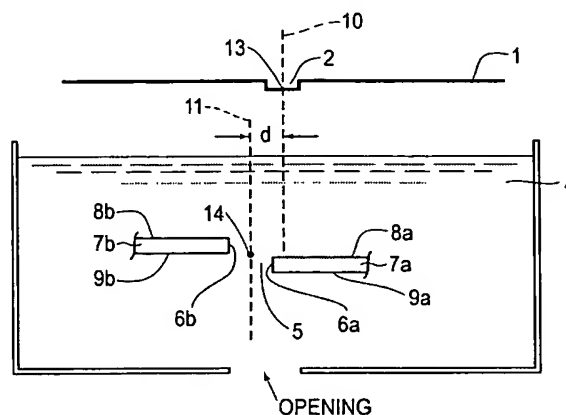
One skilled in the art would immediately notice a discrepancy between original Figure 2 and the specification, because Figure 2 does not show the slot/diaphragm being positioned at the bottom of the bath. As previously argued, and as attested to in the two Declarations previously made of record, one of skill in the art would know there needs be an opening at the

¹ The November 13, 2007 Amendment erroneously stated that Meerman (EP '431) nowhere discloses this feature.

bottom of the bath. Thus, the discrepancy is whether the slot was supposed to be depicted at the bottom of the bath, as shown in Amended Figure 2, or whether there is an opening in the bottom of the bath in addition to the depicted slot, as shown in Hypothetical Figure 2.



Amended Figure 2



Hypothetical Figure 2

As discussed above, paragraph [0004] indicates that the EP '431 process was modified so that "the positions of the spinning field and the slot or diaphragm are such that..." Based on the context of this paragraph, and the preceding paragraphs, there is no antecedent basis for "the slot or diaphragm" unless it was referring to the opening at the bottom of the coagulation bath described in paragraph [0014] of EP '431, where the opening has a greater length than the spinning section and is somewhat narrower in width. A similar description is provided in paragraph [0030] of this application in describing the shape of the slot or diaphragm 5 in relation to the spinning field 2.

Although not presented in the same order, paragraphs [0008]-[0019] of EP '431 are found substantially verbatim in paragraphs [0003]-[0016] of the instant specification. Paragraphs [0008]-[0019] of EP '431 fully describes and supports the positioning of an opening located at the bottom of the coagulation bath, where the adjacent edges of the opening are "on different levels." There is no support found in these paragraphs for the openings to be situated at any other location. Because these paragraphs of EP '431 are almost

completely incorporated into the instant specification, the disputed claim feature and objected drawing are also fully supported.

In summary, Applicants respectfully submit the disputed feature was well known in the art--see EP '431-- and it is well-settled that what is conventional or well known to one of ordinary skill in the art need not be disclosed in detail. But there is enough detail in the specification to make reasonably clear to one of skill in the art that the modification to EP '431 does not reside in 1) eliminating the discharge opening of the bath or its split-level configuration disclosed in EP '431, or 2) moving this configuration so it does not sit at the bottom of the bath, or 3) adding to the discharge opening of EP '431 a slot or diaphragm with the same split-level configuration that is place between the spinning field and the discharge opening. Instead, the specification is clear that the improvement is directed to the positioning of the center of the spinning field to the center of slot/diaphragm located at the bottom of the bath.

Thus, for at least these reasons discussed above and the reasons already made of record, Applicants respectfully submit the one skilled in the art can reasonably conclude that the inventor had possession of the subject matter in question based on the original disclosure coupled with what was known in the art at the time of filing. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of this application.